



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Veterinary Medical Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

LAWRENCE DEMARZO
Acting Director

Mailing Address:
P.O. Box 45020
Newark, NJ 07101
(973) 504-6500

April 18, 2008

5/1/08

By Certified and Regular Mail

Malachy Coyle, M.V.B.
Hillside Animal Hospital
1148 Liberty Avenue
Hillside, New Jersey 07205

Re: **I/M/O MALACHY COYLE, M.V.B.**
Hillside Animal Hospital
Complaint Number: 04-086

Offer of Settlement In Lieu of Disciplinary Proceeding

Dear Dr. Coyle:

This letter is to advise you that the New Jersey State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") has had an opportunity to review a complaint it received concerning the professional services you rendered to "Lucky" Akparanta, a nine (9) month old Collie, at Hillside Animal Hospital P.A., on or about November 11, 2003.

Specifically, the information reviewed by the Board included, but is not limited to, the following documents:

1. A complaint filed by Rosemary Akparanta with the Board on or about November 3, 2004, as well as any and all attachments and exhibits;
2. An undated correspondence, received on or about December 22, 2004, from Malachy Coyle, M.V.B., as well as any and all attachments and exhibits; and
3. Medical records for Lucky Akparanta.

Upon review of all available information, the Board has found that probable cause exists to support a finding that you engaged in professional misconduct, contrary to N.J.S.A. 45:1-21(e) in that you: 1) improperly billed the owners of a patient for veterinary services that were to be provided by you free of charge via a Friends of Animals ("FOA") certificate; and 2) failed to timely respond to an inquiry to provide information in response to a complaint received relative to your professional conduct, in violation of N.J.A.C. 13:45C-1.3. Additionally, the Board has concluded that probable cause exists to support a finding that you violated, as well as failed to comply with, the Veterinary Medical Practice Act, codified at N.J.S.A. 45:16-1, et seq., and its accompanying regulations, in violation of N.J.S.A. 45:1-21(h), and specifically N.J.A.C. 13:44-4.9, in that your medical records do not contain information required by the regulation.

The Board's review into this matter revealed that Lucky presented to you on or about November 10, 2004 for a routine spay procedure. The owner had previously contacted your office to confirm that you were a participating veterinarian in the "Friends of Animals (FOA)" spay program. As a participating veterinarian in the FOA program, you agreed to accept an FOA certificate, in lieu of payment from the owner, for the cost of a routine spay procedure, including pre-surgical examinations, anesthesia, waste disposal, post-operative care, hospitalization as required, and stitch removal if necessary. You provided an estimate to the owner for the spay procedure, on or about November 11, 2003, indicating that the owner would be responsible for \$160.00.

The spay procedure was performed on or about November 11, 2003 and, at that time you determined that Lucky was in a late term of pregnancy. Her recovery was noted as uneventful and Lucky returned home that evening. The owner maintains that she paid you a total of \$235.00 for the spay procedure despite her presentation of the FOA certificate.

In a letter sent to you via regular mail, dated November 3, 2004, you were provided a copy of the consumer complaint and were requested to forward to the Board your original medical records and a response to the complaint by November 17, 2004. After receiving no response from you by the requested date, The Board office sent a second letter to you dated December 8, 2004, requesting that you produce Lucky's original patient records along with your response no later than December 22, 2004. Neither of the letters sent to you in November or December 2004 were returned to the Board administrative office as undeliverable. You finally produced the requested records on or about December 22, 2004.

In your response to the Board, you stated that Lucky's initial spay was scheduled for November 10th but that the procedure was postponed by the owner following her review of the estimate you provided. The procedure was subsequently rescheduled for November 11th and you advised that you did not charge the owner for Lucky's overnight stay at your Hospital.

Further, you maintained that while you accepted the FOA certificate entitling the owner to a spay free of costs, the guidelines of the FOA permit you to charge additional fees in certain cases and that this case warranted those charges.

The Board, following its review of the submitted documents in this matter, concluded that you had engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e), in that, although Mrs. Akparanta presented a Friends of Animals certificate, you improperly charged for services specifically excluded by the FOA certificate, including 1) the routine office visit before the spay procedure; 2) post-operative care, namely, the injection of pain medication; and 3) surgical and medical waste removal. The Board's review of the estimate you presented to her indicated that you improperly charged the owner a total of \$110.00 for services that were covered by the FOA certificate. The Board finds that this improper charging constitutes professional misconduct, contrary to the mandates of N.J.S.A. 45:1-21(e).

Additionally, the Board finds that you that you again engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e), in that you failed to timely respond to an inquiry to provide information in response to a complaint received relative to your professional conduct, in violation of N.J.A.C. 13:45C-1.3. The record in this matter clearly indicates that the Board initially requested certain documentation from you, namely Lucky's medical records and your response to the consumer complaint in November 2004. The Board is authorized to make this request by N.J.S.A. 45:1-18 and N.J.A.C. 13:45C-1.2. A second request was made by the Board to you later in December 2004. Without any correspondence or explanation to the Board in the interim, you failed to comply with its request until November or December 2004. The Board has concluded that your failure to timely respond to the Board's request for the patient records and your response to the complaint constitutes a violation of N.J.A.C. 13:45C-1.2.

The Board also found, in its review of the patient records of Lucky, that your records failed to contain important and required information relative to the veterinary services provided to the dog. Specifically, the Board finds that the records did not contain, but is not limited to: 1) amounts of the medications you administered to the dog during the surgical procedure; 2) all pertinent symptoms and signs observed, namely no physical and/or pre-surgical examination findings; 3) conclusions and/or diagnosis; and 4) such other notes or information so as to provide a clear statement of the patient's condition and the veterinary evaluation and response. The Board has concluded that your failure to include the requisite information in your patient records constitutes a violation of N.J.A.C. 13:44-4.9.

At this juncture, the Board has determined that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that determination, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. A formal reprimand for engaging in professional misconduct, contrary to N.J.S.A. 45:1-21(e), in that you: 1) improperly billed owners of a patient with a Friends of Animals ("FOA") certificate; and 2) failed to timely respond to a request to provide information to the Board, in violation of N.J.A.C. 13:45C-1.3.

2. A formal reprimand for violating the mandates of N.J.S.A. 45:1-21(h), in that you failed to maintain patient records for Lucky that contain requisite information as required by N.J.A.C. 13:44-4.9;

3. Cease and desist from engaging in professional or occupational misconduct, in violation of the mandates of N.J.S.A. 45:1-21(d);

4. Cease and desist from violating the mandates of N.J.S.A. 45:1-21(h), specifically N.J.A.C. 13:44-4.9, by maintaining records for your patients that accurately reflected the treatment or services you rendered;

5. Pay a penalty in the amount of **\$2,500.00**, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter, for your violation of N.J.S.A. 45:1-21(e);

8. Pay a penalty in the amount of **\$1,000.00**, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter, for your violation of N.J.S.A. 45:1-21(h), specifically N.J.A.C. 13:44-4.9;

9. Pay restitution to complainant Rosemary Akparanta in the amount of **\$110.00**, to be paid immediately upon your signing of this acknowledgment at the bottom of this letter, representing the amount you improperly charged her, in violation of N.J.S.A. 45:1-21(e).

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Olga E. Bradford, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of the appropriate disciplinary action.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: 

LESLIE G. ARONSON
Executive Director

ACKNOWLEDGMENT: I, **MALACHY COYLE, M.V.B.**, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct that has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the total amount of **\$3,500.00**. I also agree to pay restitution in the amount of \$110.00 to the complainant in this matter and to adhere to the other provisions enumerated in this settlement letter.


MALACHY COYLE, M.V.B.

DATED:

cc: Olga E. Bradford, Deputy Attorney General
Robert B. Hille, Esquire